

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7234

KEITH E. BAKER,

Plaintiff - Appellant,

versus

DARRELL KIDD, Lieutenant Deputy,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Jerome B. Friedman, District Judge. (CA-03-511)

Submitted: December 19, 2003

Decided: January 13, 2004

Before WILKINSON, MICHAEL, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Keith E. Baker, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Keith E. Baker, a Virginia inmate, appeals the district court's order dismissing his 42 U.S.C. § 1983 (2000) complaint without prejudice for failure to exhaust administrative remedies pursuant to 42 U.S.C. § 1997e(a) (2000). Baker has provided this court with evidence not submitted to the district court showing that he had pursued administrative remedies prior to filing his § 1983 action. Because Baker may amend his complaint to cure the defect identified by the district court, the dismissal order is not final and thus is not subject to appellate review. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993).

We therefore dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED